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17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**
19 **SAN FRANCISCO DIVISION**

20 IN RE PACIFIC FERTILITY CENTER
21 LITIGATION

Case No. 3:18-cv-01586-JSC

22 **STATEMENT REGARDING ISSUES**
23 **PLAINTIFFS WISH TO HAVE DECIDED**
24 **PRIOR TO START OF TRIAL**

Trial Date: May 20, 2021

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STATEMENT REGARDING ISSUES PLAINTIFFS WISH TO HAVE DECIDED PRIOR TO START
OF TRIAL
CASE NO. 3:18-CV-01586-JSC

1 In accordance with the Court's April 30, 2021 order (ECF No. 777), Plaintiffs identify the
2 following issues pertaining to the verdict form and jury instructions that they wish to have decided
3 before the start of trial.

4 **I. Verdict Form**

5 Plaintiffs submitted a single proposed special verdict form (attached as Exhibit 1 to ECF No.
6 759). Chart submitted four proposed special verdict forms, with a separate verdict form for each plaintiff
7 and plaintiff couple (attached as Exhibits 2-5 to ECF No. 759).

8 Plaintiffs believe a single verdict form would be more efficient, and less likely to confuse the
9 jury than Chart's proposal to require the jury to fill out multiple verdict forms on overlapping topics.

10 **II. Jury Instructions**

11 Of the disputed issues set out in the parties' jointly submitted proposed jury instructions and
12 accompanying memoranda (ECF Nos. 757, 762, 764), Plaintiffs identify the following subset of issues
13 they seek to have resolved before trial starts:

- 14 1) Disputed Instruction No. 14 Re Damage to Eggs or Embryos Offered by Plaintiffs, and
15 Chart's Alternative Disputed Instruction No. 14;
- 16 2) Disputed Instruction No. 15 Re Past Medical Expenses Offered by Plaintiffs;
- 17 3) Disputed Instruction No. 16 Re Loss of Use of Personal Property Offered by Chart;
- 18 4) Disputed Instruction No. 19 Re Damages on Multiple Legal Theories Offered by Chart;
- 19 5) Disputed Instruction No. 24 Re Superseding Cause Offered by Chart; and
- 20 6) Disputed Instruction No. 25 Re Sophisticated User Defense Offered by Chart.

21 **III. Trial Exhibits**

22 Plaintiffs objections to Trial Exhibit 360 includes an authenticity objection under Federal Rule of
23 Evidence 901. They request a ruling on this exhibit in advance of trial.

25 Dated: May 6, 2021

GIRARD SHARP LLP

26 By: /s/ Nina R. Gliozzo

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FILER'S ATTESTATION

Pursuant to Civil L.R. 5-1(i)(3), regarding signatures, I, Nina R. Gliozzo, attest that concurrence in the filing of this document has been obtained.

Dated: May 6, 2021

/s/ *Nina R. Gliozzo*

Nina R. Gliozzo